

Secretary of State  
Certificate and Order for Filing  
**PERMANENT ADMINISTRATIVE RULES**

I certify that the attached copies\* are true, full and correct copies of the PERMANENT Rules(s) adopted on June 23, 2009 by the  
Date prior to or same as filing date.

Oregon Department of Transportation, Driver and Motor Vehicle Services Division 735  
Agency and Division Administrative Rules Chapter Number  
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Rules Coordinator Address Telephone

to become effective upon filing Rulemaking Notice was published in the May 2009 Oregon Bulletin.\*\*  
Date upon filing or later Month and Year

**RULE CAPTION**

Availability and Requirements of Hardship or Probationary Permit  
Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

**RULEMAKING ACTION**  
List each rule number separately, 000-000-0000.

**FILED**  
**JUN 25 2009**  
**ARCHIVES DIVISION**  
**SECRETARY OF STATE**

**ADOPT:** Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

**AMEND:** 735-064-0020 and 735-064-0040

ORS 184.616, 184.619, 802.010, 807.240, 807.252 and 807.270 None  
Stats. Auth. Other Authority

ORS 807.062, 807.240, 807.250, 807.270, 807.370, 809.265, 809.380, 809.419, 809.421, 813.500 and 813.602  
Stats. Implemented

**RULE SUMMARY**

OAR 735-064-0020 specifies the particular types of suspensions for which DMV will not issue a hardship or probationary permit. OAR 735-064-0020 previously did not allow DMV to issue a hardship permit to a person who had committed a fraudulent or unlawful act in applying for or in the use of a driver license, driver permit or identification card.

To establish identity, DMV is using facial recognition software to compare a person's current photograph with his or her previous photographs and all other digital photographs in DMV's data base. As a result, DMV can determine if a person previously applied for a driver license or ID card using a false name, false age or through some other fraudulent or unlawful act. ORS 809.310 and OAR 735-070-0004 authorizes DMV to suspend a person's driving privileges or identification card and the person's right to apply for privileges and an ID card if the person committed a fraudulent or unlawful act in applying for or in the use of a driver license, driver permit or ID card.

Often these suspensions result from an application for false ID when the person was under the age of 21 years. Once DMV determines the person obtained a driver license or ID card through a fraudulent or unlawful act, a suspension is imposed regardless of the number of years that have passed and regardless of the circumstances. For example, the person may have obtained the false identification in college and now eight years later is gainfully employed. Ineligibility for a hardship permit can result in tremendous financial impact on a person whose poor judgment has come to light many years later. DMV determined it is inequitable that a person convicted of a crime such as DUI or reckless driving is eligible for a hardship permit, whereas a person who obtained a false license or ID card is not eligible. DMV corrected this inequity by amending OAR 735-064-0020 to repeal the prohibition on issuance of a hardship permit under these circumstances. The result is that a person whose driving privileges are suspended under ORS 809.310(3) or 809.411(9) for committing a fraudulent or unlawful act in applying for or in the use of a driver license, driver permit or ID card will be eligible for a hardship permit if he or she otherwise qualifies.

OAR 735-064-0040 establishes the application requirements for persons applying for a hardship or probationary permit. The requirements may differ depending on the reason the person's driving privileges are suspended or revoked. DMV amended this rule to specify that a person applying for a hardship permit whose driving privileges are suspended for committing a fraudulent or unlawful act in applying for or in the use of a driver license, driver permit or ID card, must provide documentation insuring that the person is being issued the hardship permit in his or her true identity.

Thomas L. McClellan  
Authorized Signer

Thomas L. McClellan  
Printed Name

6/24/09  
Date

\* With this original, file one photocopy of certificate, one paper copy of rules listed in Rulemaking Actions, and electronic copy of rules.

\*\* The Oregon Bulletin is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation. Notice forms must be submitted to the Administrative Rules Unit, Oregon State Archives, 800 Summer Street NE, Salem, Oregon 97310 by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a Saturday, Sunday or legal holiday when Notice forms are accepted until 5:00 pm on the preceding workday.  
ARC 930-2005

DMV 12-2009

735-064-0020

**Who Can Apply for a Hardship or Probationary Permit**

(1) Any Oregon resident whose driving privileges are suspended may apply for a hardship permit unless the person's driving privileges are revoked for any reason or suspended under:

- (a) ORS 25.780 for failure to pay child support because ORS 807.250(3) does not allow the issuance of a hardship permit;
- (b) ORS 809.260 for court denial of juvenile driving privileges because a person suspended for this reason is eligible for an emergency driver permit per ORS 807.220(4);
- (c) ORS 809.280(10) for a controlled substance conviction because ORS 807.250(2) does not allow the issuance of a hardship permit;
- (d) ORS 809.419(1) for failure to appear for or pass required tests because ORS 813.520 provides that no hardship permit may be issued if a person has a mental or physical condition that makes the person unsafe to drive a motor vehicle;
- (e) ORS 809.419(2) for failure to obtain a required medical clearance because ORS 813.520 provides that no hardship permit may be issued if a person has a mental or physical condition that makes the person unsafe to drive a motor vehicle;
- (f) ORS 809.419(3) for a mental or physical condition because ORS 813.520 provides that no hardship permit may be issued if a person has a mental or physical condition that makes the person unsafe to drive a motor vehicle;
- (g) ORS 809.421(1) for habitual incompetence, recklessness or criminal negligence or committing a serious violation of the motor vehicle laws because ORS 809.421(1)(b) states this suspension is subject to any conditions the department determines necessary. The department has determined that a person suspended under this subsection may not be issued a hardship permit;
- (h) ORS 809.419(5) upon notification by the superintendent of a hospital because ORS 813.520 provides that no hardship permit may be issued if a person has a mental or physical condition that makes the person unsafe to drive a motor vehicle;
- (i) ORS 809.419(6) when a person charged with a traffic offense has been found guilty except for insanity because ORS 813.520 provides that no hardship permit may be issued if a person has a mental or physical condition that makes the person unsafe to drive a motor vehicle;
- (j) ORS 813.400 and ORS 813.403, and the person fails to install or use an IID in a vehicle(s) the person intends to operate, because under ORS 813.602(1)(a) an IID must be installed before the person is eligible for a hardship permit;
- (k) ORS 809.280(5) or ORS 809.416(1) for failure to appear in court, because ORS 807.250(4) does not allow the issuance of a hardship permit; or
- (L) ORS 809.416(2) for failure to pay a fine or obey a court order, because ORS 807.250(4) does not allow the issuance of a hardship permit.

(2) DMV will not issue a hardship permit that authorizes a person to operate a commercial motor vehicle because ORS 807.240(2) does not allow the issuance of a hardship permit to drive a commercial motor vehicle.

(3) Any Oregon resident whose driving privileges are revoked as a habitual traffic offender may apply for a probationary permit unless the person's driving privileges are also revoked for any reason other than being a habitual traffic offender or are also suspended for any of the reasons listed in section (1) of this rule. DMV will not issue a probationary permit that authorizes a person to operate a commercial motor vehicle because ORS 807.270(4) does not allow the issuance of a probationary permit to drive a commercial motor vehicle.

Stat. Auth.: ORS 184.616, 184.619, 802.010 807.240, 807.252 & ORS 807.270

Stats. Implemented: ORS 807.062, 807.240, 807.250, 807.270, 809.265, 809.380, 809.390, 809.419, 809.421,

**735-064-0040**

**Application Requirements for a Hardship or Probationary Permit**

(1) Documents required to obtain a hardship permit depend on the reason(s) for the suspension. Documents required to obtain a probationary permit depend on whether the applicant's driving privileges are also suspended and the reason for the suspension. An applicant must comply with any sections of this rule that apply to their suspension and/or revocation. All applicants must:

(a) Complete a Hardship/Probationary Application, (DMV Form 735-6044). This form is available at any DMV office and on the Internet at [www.oregondmv.com](http://www.oregondmv.com); and

(b) Pay the hardship or probationary permit fee and the reinstatement fee.

(2) An applicant, whose driving privileges are suspended based on a conviction for DUII, reckless driving, fleeing or attempting to elude a police officer or misrepresentation of age by a minor to purchase or consume alcohol, must obtain the recommendation and signature of the convicting judge on the Hardship/Probationary Application form.

(3) An applicant, whose driving privileges are suspended for two or more DUII convictions where the commission of the later offense and the conviction for a separate offense occurred within a five-year period, must submit a recommendation for issuance of a hardship or probationary permit from a program approved by AMH.

(4) An applicant, whose driving privileges are suspended under ORS 809.310(3) or 809.411(9) for committing a fraudulent or unlawful act in applying for or in the use of a driver license, driver permit or identification card, must:

(a) Provide proof of a verifiable Social Security Number or proof of not being eligible for one;

(b) Provide proof of legal presence;

(c) Submit to the collection of biometric data and establish identity as provided in ORS 807.024; and

(d) Provide proof of identity and date of birth.

(5) Unless driving privileges are suspended for a DUII conviction, an applicant for a hardship permit must submit a SR22 insurance certificate or other proof of financial responsibility as described in ORS 806.240. An applicant whose driving privileges are suspended for a DUII conviction must submit a SR22 certificate as proof of financial responsibility that shows at least the minimum coverage amounts specified in ORS 806.075. An applicant for a probationary permit must submit a SR22 insurance certificate if the applicant's driving privileges are suspended in addition to the habitual traffic offender revocation.

(6) An applicant for a probationary permit must submit to DMV a medical report form or a report on the Hardship/Probationary Permit Application (DMV Form 735-6044), completed by a licensed physician showing to the satisfaction of DMV that the applicant has no medical condition or impairment that makes it unsafe for the applicant to operate a motor vehicle.

(7) An applicant for a probationary permit must submit verification of the successful completion of a driver improvement course approved by DMV. Names of approved courses can be obtained by calling DMV.

(8) An applicant must provide the following information, depending upon the driving privileges sought:

(a) An applicant who is required to drive for employment purposes must provide the routes, counties, days and times the applicant is required to drive. In addition, this information must be supported by any of the following that apply:

(A) The applicant must submit a letter from the applicant's employer in order to verify the hours of work and the need for on the job driving;

(B) The applicant must submit proof of self-employment. Acceptable proof includes a copy of a business license, business tax statement, newspaper advertisement or business receipts; and

(C) The applicant must provide the days, hours and counties for seeking employment.

(b) An applicant who needs to drive to attend an alcohol or drug treatment or rehabilitation program must provide the name and address of the program, routes, days and times the applicant is required to drive to and from the program;

(c) An applicant for a hardship permit who needs to drive to receive medical treatment on a regular basis for himself or herself or a member of the person's immediate family, must provide the name and address of the medical treatment facility, routes, days and times the applicant is required to drive to receive medical treatment on a regular basis for the person or a member of the person's immediate family. The applicant must submit a signed statement from the physician or certified nurse practitioner treating the person or the person's immediate family member, advising of the need for medical treatment on a regular basis. The statement must include how often the treatment is required and hours of the day and days of the week treatment is available. Actual appointment times are subject to verification by DMV and law enforcement;

(d) An applicant for a hardship permit, whose driving privileges are suspended for violation of ORS 165.805, ORS 471.430, or ORS 806.010, is eligible to request driving privileges for family necessities. The applicant must provide the name and address of the person to whom or facility to which the applicant is driving for the family necessity, routes, days and times the applicant is required to drive for family necessities, as defined in OAR 735-064-0005.

(9) Applicants may submit documents to DMV as they meet requirements. DMV, however, will not issue the hardship or probationary permit until all required documents are received and processed by DMV, Driver Suspensions Unit.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.240 & 807.270

Stats. Implemented: ORS 807.240, 807.250, 807.270, 807.370, 813.500, 813.510